

SUPERIOR COURT OF THE STATE OF WASHINGTON
KITSAP COUNTY

CITY OF BREMERTON, a Washington
municipal corporation,

Plaintiff,

v.

NATACHA SESKO,

Defendant.

No. 07-2-01698-0

DECLARATION OF ALAN S.
MIDDLETON IN OPPOSITION
TO MOTION FOR DEFAULT
AND FOR FEES & IN SUPPORT
OF REQUEST FOR FEES
PURSUANT TO CR 11

Alan S. Middleton declares:

1. I am a partner with Davis Wright Tremaine LLP, attorneys for defendant
Natacha Sesko in this matter.

2. On Wednesday, September 5, 2007, I arranged service of defendant's answer by
email, with overnight delivery via FedEx on September 6, 2007. The original answer was filed
by overnight delivery via FedEx on September 6, 2007.

3. On Wednesday, September 5, 2007, I spoke with Mr. Koontz, counsel for the
City, by telephone. I asked Mr. Koontz what his purported basis for fees was; Mr. Koontz gave
no explanation other than that he had been forced to prepare a motion for order of default – *i.e.*,

**DECLARATION OF ALAN S. MIDDLETON IN OPPOSITION TO
MOTION FOR DEFAULT AND FOR FEES & IN SUPPORT OF REQUEST
FOR FEES PURSUANT TO CR 11 - 1**

SEA 2077913v1 0026380-000001

Davis Wright Tremaine LLP
LAW OFFICES
Suite 2200 • 1201 Third Avenue
Seattle, Washington 98101-3045
(206) 622-3150 • Fax: (206) 757-7700

1 Mr. Koontz did not identify a basis in the rules, any statute, or recognized equitable ground for
2 recovering the City's fees. He also refused to strike the motion, now set for Friday, September
3 7, 2007, despite defendant's having answered the complaint. I told Mr. Koontz in that
4 conversation that he would seek fees if Mr. Koontz did not strike the motion.

5 4. Ms. Sesko has incurred substantial fees as a result of Mr. Koontz's refusal to
6 strike his motion for fees. I will have had to draft this memorandum (1.0 hour), to travel to and
7 from Port Orchard from Seattle (3.0 hours roundtrip), and to wait for and to argue against Mr.
8 Koontz's meritless motion (assumed to be 1.0 hour). My hourly rate is \$370; at that rate, Ms.
9 Sesko will have incurred fees totaling \$1,850 before all is said and done.

10 I declare under penalty of perjury of the laws of the State of Washington that the
11 foregoing is true and correct.

12 Executed this 5th day of September, 2007, at Seattle, Washington.

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14 
15 Alan S. Middleton

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**DECLARATION OF ALAN S. MIDDLETON IN OPPOSITION TO
MOTION FOR DEFAULT AND FOR FEES & IN SUPPORT OF REQUEST
FOR FEES PURSUANT TO CR 11 - 2**

SEA 2077913v1 0026380-000001

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CERTIFICATE OF SERVICE

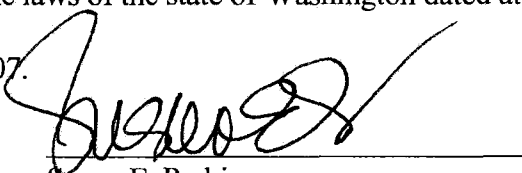
I hereby certify that on this 5th day of September 2007, I caused the document to which
this certificate is attached to be delivered the following as indicated:

Mark E. Koontz
Office of the City Attorney
345 6th Street, Suite 600
Bremerton, WA 98337

Via Electronic Mail:
mark.koontz@ci.bremerton.wa.us

Via FedEx (delivery on 9/6/07)

Declared under penalty of perjury under the laws of the state of Washington dated at
Seattle, Washington this 5th day of September 2007.



Susan E. Perkins

**DECLARATION OF ALAN S. MIDDLETON IN OPPOSITION TO
MOTION FOR DEFAULT AND FOR FEES & IN SUPPORT OF REQUEST
FOR FEES PURSUANT TO CR 11 - 3**

SEA 2077913v1 0026380-000001

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